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PATENT

Attorney Docket No.
DX0935K

CN 028008

Date: September 17, 2002 By: Lois Miller
 Lois Miller

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

B. OPPMANN, et al.

Serial No.: 09/521,335

Filed: March 9, 2000

For: MAMMALIAN CYTOKINES; RELATED
 REAGENTS AND METHODS

Examiner: R. Hayes

Art Unit: 1647

**RESPONSE TO COMMUNICATION FROM
 THE EXAMINER AND PRELIMINARY
 AMENDMENT**

Palo Alto, California 94304

September 17, 2002

10/a
 M.G.J.
 9/21/02

Assistant Commissioner for Patents
 Washington, D.C. 20231

Sir:

This is a Preliminary Amendment and Response to the Communication received from the Examiner (paper number 9), dated July 2, 2002. Petition for a two-month extension of time, thereby extending the time to respond from August 2, 2002 to October 2, 2002, accompanies this response.

I. Response to Communication from the Examiner

The Examiner indicated that the Applicants previous response (paper number 8) to a Restriction Requirement, dated July 3, 2001 (paper number 7), was not fully responsive. In particular, the Examiner noted that Applicants did not elect a single sequence identifier to be prosecuted. Applicants had previously provisionally elected, with traverse, Group VI, encompassing Claims 17-20 and 22(b-c) drawn to a nucleic acid, vector, and host cell.

09/23/2002 6TRAMMEL 00000002 041239 09521335

01 FC:116 400.00 CH
 02 FC:103 90.00 CH
 03 FC:102 168.00 CH

In a telephone conversation on September 3, 2002 with the Examiner, Applicants Attorney explained that selecting a single sequence identifier would not encompass the intended invention as the elected claims encompass nucleic acids that encode a soluble complex, i.e., a heterodimeric cytokine. Applicants appreciate the Examiner's willingness to discuss this issue and the suggestion to file a preliminary amendment to clearly claim this soluble complex. Below is the preliminary amendment. Applicants respectfully request that the above additional required election of a single sequence identifier be withdrawn.

II. Preliminary Amendment

In the Claims:

Please cancel Claims 17-20 and 22, without prejudice.

Please add new Claim 31-40 as indicated below.

31. (New) An isolated or recombinant nucleic acid encoding a soluble cytokine polypeptide complex comprising the amino acid sequence of:

- a) IL-B60 having a sequence of SEQ ID NO: 2 or 4; and
- b) CLF-1 having a sequence of SEQ ID NO: 12 or 13.

32. (New) The nucleic acid of Claim 31, wherein the nucleic acid is detectably labeled.

33. (New) An expression vector comprising the nucleic acid of Claim 31.

34. (New) A host cell comprising the expression vector of Claim 33.

35. (New) The host cell of Claim 34, wherein the host cell is:

- a) a prokaryotic cell;
- b) a mammalian cell;
- c) an insect cell; or
- d) a yeast cell.